

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS (HOUSTON)

IN RE: . Case No. 20-33948
. Chapter 11
. (Jointly administered)_
FIELDWOOD ENERGY, LLC, .
et al., . 515 Rusk Street
. Houston, TX 77002
Debtors. .
. Monday, January 25, 2021
. 8:59 a.m.
.

TRANSCRIPT OF MOTION FOR RELIEF FROM STAY, FEE AMOUNT \$188,
FILED BY CREDITOR LLOG EXPLORATION COMPANY, LLC [683];
MOTION FOR ADEQUATE PROTECTION FILED BY CREDITOR
LLOG EXPLORATION COMPANY, LLC[684]
BEFORE THE HONORABLE MARVIN ISGUR (VIA VIDEO CONFERENCE)
UNITED STATES BANKRUPTCY COURT JUDGE

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I N D E X
1/25/21

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FOR THE MOVANT:

Michael T. Dane	52	--	--	--
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FOR THE DEBTORS:

Michael T. Dane	76	78	--	--
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EXHIBITS

ADMITTED

ECF 774-1	21
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1 (Proceedings commence at 8:59 a.m.)

2 THE COURT: All right. Good morning. We're here in
3 the Fieldwood Energy case. It's 20-33948. Let me get a status
4 report as to where we are from Mr. Goodwine and Mr. Perez.

5 Mr. Goodwine, I found Mr. Perez's phone number.
6 Could you go ahead and press "five star" on your line so I can
7 find yours as well. I think you pressed it twice. If you
8 could press it just one -- there we go. Thank you. Calling
9 from a different number than usual.

10 All right, Mr. Perez, Mr. Goodwine. Tell me where we
11 are.

12 MR. GOODWINE: Good morning, Your Honor.
13 P.J. Goodwine. Can you hear me, Your Honor?

14 THE COURT: I can. Thank you.

15 MR. GOODWINE: We do not have an agreement, and I
16 think both parties are prepared to proceed. We did talk on
17 Friday afternoon about witness and exhibit lists to try to keep
18 things as organized as possible. But I think that both
19 motions, with the concentration on the adequate (audio
20 interference) this morning.

21 THE COURT: All right. Let's move ahead.

22 MR. GOODWINE: Okay. Your Honor, my client, LLOG
23 Exploration, is the movant, so what I was proposing to do is
24 give kind of an opening statement and an argument, and then
25 proceed on to direct examination of Mr. Dane, as appropriate.



1 If you want me to pause before that to hear from the debtor,
2 I'm more than happy to proceed in that regard. The main
3 point --

4 THE COURT: Yeah. If you want to do an opening
5 statement, let's give them a chance to do an opening statement,
6 and then we'll move into the evidentiary record.

7 MR. GOODWINE: Okay. Thank you, Your Honor.

8 The main point of LLOG's motion practice is to secure
9 adequate protection for its secured claim. The same motion
10 component is an actual appendix to that because the relief
11 requested would require us to go to a third party to seek
12 relief in the escrow of production. From a 30,000-foot view,
13 what we need to be cognizant of is what Fieldwood is ultimately
14 attempting to do. And this became clear, quite frankly, after
15 we filed our motion. Due to their plan filings, they're
16 seeking to abandon their plugging and abandonment obligations
17 in both Green Canyon 157 and Green Canyon 201 to LLOG and to
18 other parties while stripping out from their obligations an
19 overriding royalty interest they have in the exact same
20 contract area.

21 LLOG was patient through the opening stages of the
22 bankruptcy, but certainly became concerned as to the ultimate
23 (audio interference) reorganization. And with the collateral
24 that we're specifically talking about today, which is not the
25 mortgage in the underlying override, which we obviously believe

1 we have and reserve rights to that. But it's the daily ongoing
2 production and the proceeds therefrom that are our collateral
3 and are presently going to simply fund the bankruptcy case
4 without prospects of ultimate resolution at the end of the day.

5 At the end of the day -- then the proceeds, just to
6 be clear, so we can talk about it from the correct legal terms,
7 we're talking about cash proceeds received from the sale of
8 produced oil and gas attributable to Fieldwood's overrides on
9 Green Canyon 201, and ultimately the plan is for them to
10 extinguish the underlying override and therefore, you know,
11 under 363, we'll be back arguing about that, I'm sure. But
12 between now and then, the only recourse we have is to the
13 production (audio interference) proceeds.

14 Keep in mind the limited nature of what LLOG is
15 requesting in its motions. We are only seeking to have the
16 production proceeds escrowed pending the claims objection
17 process. We are not seeking that the funds be paid to LLOG at
18 this point. We're taking a very measured and limited approach
19 in order to ensure that the only potential collateral available
20 as the bankruptcy proceeds is the cash collateral associated
21 with the as-extracted collateral from the override.

22 We're not attempting to recharacterize or even get a
23 court ruling or to weigh in on whether or not P&A is an
24 administrative expense or not, even though the focus of our
25 unpaid claims is P&A. We're not trying to challenge what the

1 scope of an overriding royalty interest traditionally covers.
2 We understand that they're traditionally non-cost-bearing
3 interest. The request for relief exclusively with LLOG's
4 ability to protect its rights in collateral here just so
5 happens to be as-extracted collateral from an override, which
6 is provided for under the applicable operating agreements and
7 various acknowledgments and rights created under public records
8 filing.

9 Adequate protection obviously emanates from 363 of
10 the Bankruptcy Code, specifically 363(e). The focus of the
11 requirement is protection to be provided as a condition to the
12 use of lost property during the bankruptcy case. To establish
13 a prima facie case for lack of adequate protection, the movant,
14 LLOG, must show that it holds a claim secured by a valid,
15 protected lien upon estate property, and that there's a decline
16 in the value of the collateral or a threat associated therewith
17 against which we're precluded from taking action due to the
18 automatic stay.

19 We believe that all of those factors are met in this
20 case. Once we establish that prima facie showing, then the
21 debtor must show how or why adequate protection is already
22 provided without there being further order of the Court.

23 Overrides are declining, by their nature, in value.
24 That's particularly true in this case for a few reasons.
25 Number one, the present cash flow associated with the

1 production associated with the override in this case is solely
2 dependent upon operations of LLOG, as Fieldwood is now non-
3 consent. And secondly, Fieldwood (audio interference) not take
4 any action under the operating agreement or otherwise due to
5 their non-consent status in order to increase production or to
6 propose activities that would protect or enhance (audio
7 interference).

8 The oil and gas industry is in a precarious state at
9 the moment, as I think you know. There was -- and we uploaded
10 this last night, and we'd like the Court to take judicial
11 notice of it. It was filed as Exhibit 46 by LLOG and it's
12 (audio interference) order by the Acting Secretary of the
13 Department of the Interior, which has basically created a
14 moratorium on the issuance of new drilling permits. So any
15 activity in Green Canyon 201 to sustain or to extend production
16 is presently precluded by the Secretarial order.

17 And if I may, Your Honor, I think this is the first
18 hearing I've done since the COVID protocols were put into
19 effect. Do I or Ms. Johnson need to upload the specific
20 document, or are people doing that on their own if I call out
21 the appropriate CM/ECF record?

22 THE COURT: Oh, that's really up to you. You can
23 either broadcast it, if you wish, or people can look at it on
24 their own.

25 MR. GOODWINE: Okay. What I'd like to call your

1 attention to, Your Honor -- and this will be under Document
2 784-1, which was uploaded last night, which is a Secretarial
3 order issued mid-last week that basically in Paragraph G
4 indicates that there will be a moratorium on issuance of new
5 leases and also permits to drill. And that's important because
6 to sidetrack a well or to develop reserves further, a permit to
7 drill would need to be issued.

8 Now, I don't want to overstate the argument. I
9 always try to keep it in the appropriate perspective --

10 THE COURT: So, Mr. Goodwine, this is the first time
11 I've seen this order. My quick glance at it says it transfers
12 the authority from some subordinate positions to senior
13 positions to approve drilling, not that it suspends the
14 authority to approve drilling.

15 It just says from now on we're not going to do it at
16 a junior level, we're going to do it at a "Secretary, Deputy
17 Secretary, Solicitor, Assistant Secretary, Assistant Secretary,
18 Assistant Secretary, Assistant Secretary, Assistant Secretary,
19 or Assistant Secretary" level.

20 Are you telling me that -- and I haven't read it
21 carefully. But are you telling me that this actually suspends
22 the authority altogether, or does it simply transfer the
23 individual within the Department who would have the authority
24 to grant the permit?

25 MR. GOODWINE: For all practical purposes, we believe



1 it is an effective moratorium because the people that approve
2 permits within the Bureau of Safety and Environmental
3 Enforcement are significantly junior to anyone on this list.
4 And they bypass even the Regional Director for BSEE, which is
5 the direct supervisor of those that handle the types of permits
6 we're talking about. And even bypasses that individual's boss,
7 which is the ultimate director of BSEE in Washington, D.C.

8 So I seriously doubt that anyone on this list -- and
9 most of the ones that have the Assistant Secretary titles do
10 not deal with offshore Gulf of Mexico operations. So, from a
11 practical standpoint, until this order is listed, I don't think
12 that you're going to see a drilling permit issued within the
13 Gulf of Mexico, which obviously creates some consternation --

14 THE COURT: And it's a 60-day order. Did y'all have
15 drilling planned in the next 60 days?

16 MR. GOODWINE: Not to my knowledge, Your Honor. But
17 it's an indication not to prove that there will not forevermore
18 be no further activities, but the ability to continue to
19 protect the viability of production in the Gulf of Mexico is
20 called into question, and be an additional reason beyond what
21 we put in our memos and what we'll be talking about today.

22 THE COURT: All right. And are you moving me to take
23 notice of this memo?

24 MR. GOODWINE: That is correct, Your Honor. We would
25 move that the Court take judicial notice of CM/ECF 784-1.



1 THE COURT: Any objection to taking notice of 784-1
2 as an action of the United States?

3 MR. PEREZ: No objection, Your Honor.

4 THE COURT: All right. 784-1 is actually admitted as
5 a document. That will make it easier that way.

6 (ECF 784-1 admitted into evidence)

7 MR. GOODWINE: Thank you. And so with that, you
8 know, especially as we're talking about what hopefully for the
9 estate and everyone involved is a short-term (audio
10 interference) get to a plan confirmation, which is not
11 guaranteed obviously for a lot of different reasons, that it's
12 during this period that we're seeking to have the (audio
13 interference) production proceeds segregated and escrowed so
14 that LLOG's secured claim can be protected as we move through
15 the bankruptcy case.

16 THE COURT: How much is that a month --

17 MR. GOODWINE: The last --

18 THE COURT: How much is that on a monthly basis,
19 Mr. Goodwine? Roughly. I don't know if I'm talking \$10,000 or
20 \$10 million, so --

21 MR. GOODWINE: Well, it's between the two. I think
22 it's about \$50,000. And that is with an appropriate caveat a
23 lawyer gets without direct input from client. And don't want
24 to put Mr. Dane on the spot too much when we go through some
25 examination. But if he may know from a recipient standpoint,



1 we may get clarity on it.

2 THE COURT: Okay. But in the range of \$50,000 is at
3 least what your opening position would be.

4 MR. GOODWINE: That is correct, Your Honor.

5 THE COURT: All right. Thank you.

6 MR. GOODWINE: Okay. And then lastly, Your Honor --
7 just, again, from a global dynamic standpoint, and we're here
8 to talk about the 363 issues, but the ultimate concern by LLOG
9 is also forward thinking, which is if their plan is confirmed,
10 they plan to take the P&A on these properties and abandon them
11 to LLOG and others, predecessors, and then take the override
12 and strip it out and deliver it to the lienholders as a part of
13 the ultimate package of what will go with the credit bid and/or
14 the purchase.

15 Now, from our perspective, it's got to be a part of
16 the purchase, not the credit bid, because the public records do
17 not reflect any filing by the lenders as to a mortgage or a
18 security interest against the override or the as-extracted
19 collateral that we're talking about today. So the only lien
20 claimant from LLOG's perspective is LLOG, at the end of the
21 day.

22 So LLOG asserted through its proof of claim a claim
23 for \$902,490.92, and this specifically relates to unpaid joint
24 interest billings for plugging and abandonment on Green Canyon
25 157, which is an expired lease. But it's a part of the same



1 operating agreement that Green Canyon 201 is covered by. The
2 two aliquots and depths from those two blocks for what is at
3 stake today are all defined collectively as the contract area
4 under the operating agreement.

5 So an unpaid expense on Green Canyon 157 would be
6 covered by security interest encumbering whatever property that
7 Fieldwood would have on Green Canyon 201. I'd like to call
8 your attention to LLOG Exhibit L-19, which can be found at
9 CM/ECF 774-19. And this is also at Debtors' Exhibit 12, which
10 CM/ECF 775 (audio interference).

11 And this is -- Your Honor, again, we'd like you to
12 take judicial notice of it only. If you want to admit it as
13 you did the prior document, that would be acceptable to us, but
14 we want the Court (audio interference) the fact that LLOG has
15 filed a claim for roughly 20 million total dollars (audio
16 interference) for future P&A work.

17 The only thing at stake today is the 902,000 secured
18 claim as asserted, and we believe that that demonstrates prima
19 facie evidence of its validity for purposes of today only. I'm
20 sure we'll talk about some offsets that Fieldwood believes they
21 have to it later on in the process, and we'll reserve comment
22 until we get to that point in time. So we'd like the Court to
23 take judicial notice of either -- I don't think it matters --
24 CM/ECF 774-19 or Debtors' Exhibit 12, which is CM/ECF 775-13.

25 THE COURT: Mr. Perez.



1 MR. PEREZ: Your Honor, no objection. We had talked
2 to Mr. Goodwine about basically admitting most of the exhibits,
3 so we don't have -- we don't have an issue with that.

4 THE COURT: All right. 774-19 is admitted.
5 (ECF 774-19 admitted into evidence)

6 MR. GOODWINE: Okay. We also have, Your Honor, just
7 to I guess complete the record on it -- and I'll let Mr. Perez
8 speak up if he has an objection, but we also have the backup
9 joint interest billing statements that have (audio
10 interference) that appear at LLOG Exhibits L-27 through L-35,
11 which are CM/ECF 774-27 through 35.

12 THE COURT: Any objection to 774-27 through 774-35?

13 MR. PEREZ: Your Honor, we do not object as to the
14 authenticity of these documents or that they were submitted.
15 We do object to whether they're owed. We don't agree that
16 that's the amounts owed, but we do agree that these are the
17 invoices that were given to us.

18 THE COURT: Is that the basis --

19 MR. PEREZ: But we have no objection --

20 THE COURT: -- on which they're offered,
21 Mr. Goodwine?

22 MR. GOODWINE: I'm sorry, Your Honor?

23 THE COURT: Is that the basis on which you're
24 offering them?

25 MR. GOODWINE: That is correct, Your Honor.



1 THE COURT: They're admitted --

2 MR. PEREZ: We understand --

3 THE COURT: Sorry. They're admitted for the purpose
4 of showing that these are invoices delivered by LLOG to debtor,
5 774-27 to 35, but not for the purpose of showing that the
6 amounts submitted were appropriate, or due and owing.

7 (ECF 774-27 through 774-35 admitted into evidence)

8 MR. GOODWINE: Thank you, Your Honor. What I'd like
9 to talk about next -- again, from just an overview perspective,
10 is that one of the reasons (audio interference) was when we got
11 the response from Fieldwood, it seemed to be clear that we were
12 talking past each other on what UCCs were actually -- that LLOG
13 was relying upon to satisfy its lien -- or the perfection
14 aspect of its lien claim. And so we hit the pause button so we
15 could make sure that everyone was looking at the same document.

16 So we have gone through that process and what I want
17 to talk, you know, to a certain extent about is how those --
18 the documents of public record create the perfection aspect of
19 LLOG's claim, and then we'll loop back to the underlying grant
20 of a security interest in order to kind of close the loop on
21 the fact that we believe that we have a secured claim that
22 requires adequate protection.

23 Now, the (audio interference) of UCC filings that are
24 in play can be found at -- in both the debtors' and also LLOG's
25 exhibit list. From LLOG's exhibit list, it would be L-11, and

1 L-14 through L-18. And I'd like to offer those into evidence
2 as they're all certified copies of records (audio interference)
3 parish public records.

4 THE COURT: Any objection to the admission of 774-11,
5 14, 15, 16, 17, and 18?

6 MR. PEREZ: No, Your Honor.

7 THE COURT: Those are admitted.

8 (ECF 774-11 and 774-14 through 774-18 admitted into
9 evidence)

10 MR. GOODWINE: And Your Honor, what we'd like to do
11 is demonstrate that under L-11, which is a UCC originally filed
12 between LLOG and the predecessor to Fieldwood, a company by the
13 name of Davis Offshore, LP, includes within it the actual grant
14 of security interest in Section 5.2.

15 And so from a roadmap standpoint as to where we may
16 be going, under CM/ECF 774-11, I'm looking specifically at
17 Page 6 of 18. And it's Paragraph 5.2 which is the non-
18 operating party grant of a continuing security interest in and
19 to (audio interference). And we believe this is a grant, that
20 the key for (audio interference) purposes -- again, there's
21 some timing issues in the fifth, that in the -- one, two, three
22 -- third line (audio interference) it captures after acquired
23 title. It says, "Whether now existing or hereafter acquired."

24 And so it's important when Fieldwood obtained title
25 to the override within Green Canyon 201 (audio interference).



1 In addition, the laundry list of what is covered by the grants,
2 without qualification, says all oil and gas produced, all
3 accounts receivable, and all cash proceeds. Therefore (audio
4 interference) limitation -- and I'm sure you'll hear from
5 Fieldwood -- that this override is outside the scope of what
6 was (audio interference) from a security interest standpoint.

7 Now, I'm not going to go through --

8 THE COURT: Actually, for what it's worth, that's not
9 what I read them saying. I read them saying that there was a
10 carveout in the agreement that carved out the ORRI, not that
11 they weren't -- they had some UCC problems, but not that the
12 original UCC wouldn't have covered overrides. But rather that
13 the overrides were later carved out, is what I read them to
14 say.

15 Is that different than what you read them to say?

16 MR. GOODWINE: It is, and I'm working towards that.
17 I'm just trying to get the record established because we don't
18 have an actual stipulation as to the perfection, et cetera.
19 And if that happens during this actual hearing, that would be,
20 you know, helpful for not only today but future purposes. But
21 I think the L-11 and L-14 through 18, you know, create the
22 perfection aspect, and also L-18 is a continuation statement
23 filed (audio interference) appropriate window to keep it alive
24 through today.

25 So we'll move on from the perfection issue and (audio

1 interference) but for the time being we'll assume that we're
2 not going to have an issue with the actual grant of the
3 security interest in the first place or the -- not the
4 perfection, the attachment thereof, and it's -- the argument's
5 going to be limited to whether or not the override is captured
6 within that collateral package.

7 Now, to get to, I think, the issue that you just
8 pulled me to, Your Honor, I think we need to look at Exhibits
9 13, 14, and 16. So these are going to be LLOG's Exhibits 13,
10 14, and 16. (Audio interference) through Exhibit 13 first,
11 which is (audio interference) by Fieldwood itself, along with
12 LLOG as operator, in which they -- on Page 2 of 8 -- so this
13 would be under CM/ECF 774-13, Page 2 and 3 of 8 are what we're
14 going to cover.

15 It basically says that Fieldwood and LLOG, each of
16 which own portions in the contract area, which through other
17 public records filings, which I don't think are in dispute,
18 clearly encompass both Green Canyon 157 and the northeast
19 quarter of 201 where the override is. "In consideration of
20 mutual covenants in the MOA as amended and ratified," they do
21 "hereby agree to the recitals stated above," and do "hereby, by
22 amending the Attachment 1 thereto, as stated in Exhibit A" --
23 "hereby fully ratify the MOA, as hereby amended."

24 That MOA was the original MOA filed between the
25 predecessor to Fieldwood, Davis, and LLOG, which is found at

1 LLOG Exhibit (audio interference). So, in other words,
2 Fieldwood stepped into whatever was granted under the
3 memorandum of operating agreement as previously filed by and
4 between LLOG and Davis.

5 In addition to that, on Page 3 of 8 -- and I'm
6 speaking from the ribbon there, the amendment ratification is
7 to be recorded -- and it was; we're looking at a certified copy
8 -- in both the Terrebonne Parish records and UCC -- I think we
9 checked both those boxes -- are "providing notice of the mutual
10 liens and security interests now held by the parties to the
11 MOA."

12 (Audio interference) the fact that Fieldwood (audio
13 interference) a grant of a security interest that includes
14 after-acquired title, which the override is. And we'll look at
15 the operating agreement in (audio interference) that works and
16 plays, but the override is for the exact same aliquots and
17 depths in the northeast quarter of Green Canyon Block 201 that
18 is covered by the operating agreement and these memoranda of
19 operating agreement as filed of public record.

20 (Audio interference) I'd like to talk about next is a
21 couple of things, and that's where we'll get into, I think, the
22 operating agreement provisions, you know, in play, is the first
23 argument raised by Fieldwood is that (audio interference)
24 itself contains the traditional language that it will not be a
25 cost-bearing interest. (Audio interference) it says what it

1 says. We agree with that. Almost override says that.

2 What I think they're missing is that we're not trying
3 to convert the override into a cost-bearing interest. We're
4 trying to say the override -- and for purposes of today, the
5 as-extracted collateral, our collateral for defaults that may
6 occur, which include the non-payment of P&A prepetition that
7 are \$902,000.

8 So we're not trying to change the characterization of
9 an override. We're simply trying to say that this override is
10 collateral for an obligation that just so happens to be unpaid
11 P&A --

12 THE COURT: Well, let me --

13 MR. GOODWINE: -- and therefore we're --

14 THE COURT: Let me see if I understand where some of
15 this confusion might come. You're telling me you have an
16 interest in the oil and gas, but you don't have an interest in
17 the override, a collateral interest in the override contract
18 itself? Is that right?

19 MR. GOODWINE: (Audio interference) the exact
20 opposite, that --

21 THE COURT: Show me where --

22 MR. GOODWINE: -- we have --

23 THE COURT: Show me where you have -- if you have a
24 collateral interest in the oil and gas, but the override isn't
25 subject to cost bearing, then your collateral interest in the



1 oil and gas may not help you. The question is do you have a
2 collateral interest in the override and whatever it gets. And
3 I haven't yet seen that document.

4 MR. GOODWINE: That's where I think, Your Honor, if
5 we go back to -- we can look at it in a few different places.
6 Let's start with -- let's start with the operating agreement
7 itself. Then we'll kind of layer into that. So if we go to
8 LLOG Exhibit 1, which I'll move into evidence now, which I
9 don't think there'll be an objection to --

10 THE COURT: Any objection to 774-1?

11 MR. PEREZ: No, Your Honor.

12 THE COURT: All right. It's admitted.

13 (ECF 774-1 admitted into evidence)

14 MR. GOODWINE: And specifically Exhibit I thereto,
15 which starts on Page 178. So, for the record and for position,
16 we're talking about Document 774-1. And we're going to start
17 on Page 178 of 185 from the ECF ribbon at the top.

18 Under this operating agreement, the security rights
19 provisions happen to be an exhibit as opposed to the body of
20 the agreement. With all of the agreement review you've done
21 over the years, Your Honor, I think you've seen security
22 interest provisions where the operator and non-operator have
23 their security rights, mortgages, in the contract area property
24 in order to ensure that there's a (audio interference) for
25 unpaid, you know, joint interest billings and other

1 liabilities. And it traditionally protects the operator, not
2 the non-operator, because that's normally where the obligations
3 are due and owing.

4 In this instance, like in most, there's a separate
5 mortgage component, which is in Exhibit I, Part A, Subpart (I),
6 and then on Page 179 you get into the security interest aspect,
7 which gets you into the oil and gas, the as-extracted
8 collateral, the proceeds of production, and the accounts, et
9 cetera. The key is that the grant of the mortgage and security
10 interest is (audio interference) contract area, and what the
11 parties own in the contract area.

12 Now, it's true when -- everything we've looked at so
13 far, and we haven't gotten to the point in time within the time
14 line as to when Fieldwood acquired the actual override, that
15 the contract area was primarily the working interest only of
16 LLOG and Fieldwood in Green Canyon 157 and 201.

17 Now, in Subpart (ii), which is Page 179 of 185, there
18 is a -- here there's an after acquired title component that
19 allows the operator -- in this case, LLOG, to acquire a
20 security interest in property that's subject to a security
21 interest, and also on the mortgage side, for what is acquired
22 down the road. And that would include, our argument is, the
23 overriding royalty interest because there have been various
24 opportunities, which we'll talk about in a second, to carve out
25 or to directly discuss the limitations on the scope of the



1 security interest to not include the overrides, and that has
2 not been done.

3 And so our argument, in a nutshell, to be very
4 precise on it, is that under Operating Agreement Exhibit I,
5 Part A, Subpart (ii), there is "after acquired title," which
6 allows LLOG security interest to attach to (audio interference)
7 the as-extracted collateral of the override when it was
8 acquired.

9 THE COURT: Right. Does the ORRI under Louisiana law
10 constitute an interest in the oil and gas, or is it merely a
11 contractual financing arrangement?

12 MR. GOODWINE: It's an interest in the oil and gas
13 by, I think, fairly clear black letter law under the civil code
14 and otherwise.

15 THE COURT: The ORRI itself is an interest in the oil
16 and gas?

17 MR. GOODWINE: Yes.

18 THE COURT: Okay.

19 MR. GOODWINE: Yeah.

20 THE COURT: Where would I find that?

21 MR. GOODWINE: Yes. Going to be in the Mineral
22 Codes. By the time the hearing is over, we'll have an exact
23 cite for you. But it's going to be Louisiana Revised Statute
24 31 colon something, which we will find and deliver as a part of
25 the --



1 THE COURT: Because as I'm looking at this, what
2 you're telling me is it's going to be (ii)(a), right? "All oil
3 and gas produced from the lands or offshore blocks." And
4 you're telling me that --

5 MR. GOODWINE: Correct.

6 THE COURT: -- that the ORRI is an interest in the
7 oil and gas produced?

8 MR. GOODWINE: We're saying two things. The answer
9 is a definite yes and (audio interference) purposes that we
10 also have the interest in the oil and gas produced and also in
11 -- go down to (c) -- "all cash or other proceeds from the sale
12 of such oil and gas once produced."

13 And so it's not just the oil and gas. It also then
14 converts itself into the security interest against what is then
15 converted from being molecules and minerals into the (audio
16 interference) paid Fieldwood for such minerals at the end of
17 the day.

18 THE COURT: All right.

19 MR. GOODWINE: And so that's the argument. We'll get
20 you the Mineral Code cite as we move through the hearing.

21 In addition to that, Your Honor, the same (audio
22 interference) for what it's worth, is also in LLOG's Exhibit
23 (audio interference) which is the stand-alone unfiled version
24 of the memorandum of operating agreement and financing
25 statement that was originally executed by Davis and LLOG -- and



1 Davis is the predecessor to Fieldwood. And it's -- so, for the
2 record, 774-38. I'm on Page 2 of 11. It's basically (audio
3 interference) same concept (audio interference) in a stand-
4 alone fashion that also includes, as we discussed, the
5 hereafter acquired title concept.

6 And the reason why it's important is that neither
7 Davis nor Fieldwood owned this override until Fieldwood
8 acquired it after they became a working interest partner within
9 the field. Now --

10 MR. PEREZ: Your Honor, I missed what exhibit number
11 that was. I apologize.

12 THE COURT: 774-38 is what I wrote down.

13 MR. GOODWINE: And for the record, we'd like to also
14 just make reference to 39, which is a correction to 38. And
15 all it did was change the exact property description from
16 "Garden Banks 201" to "Green Canyon 201." So at this point,
17 I'd like to offer into evidence 774-38 and 774-39.

18 THE COURT: Any objections?

19 MR. PEREZ: No objection, Your Honor.

20 THE COURT: They're admitted.

21 (ECF 774-38 and 774-39 admitted into evidence)

22 MR. GOODWINE: Thank you. Now to lean to Exhibit 2,
23 Your Honor, which is now a Ratification and First Amendment to
24 Operating Agreement, and this is where Fieldwood shows up in
25 2014 after they acquire Davis's interest in the property. So

1 this is going to be Document 774-2 from the CM/ECF.

2 And on Page 2 of 5, in Paragraph 1, it basically says
3 "LLOG Energy and Fieldwood hereby ratify, adopt, and confirm
4 the terms and provisions of the operating agreement, become
5 parties to and now bound by the terms and provisions of the
6 operating agreement to the same extent as if they were original
7 signatory parties."

8 So they're going back to Day 1 from an effectiveness
9 standpoint, and the ratification itself is effective December
10 12th, 2002, the original date on the operating (audio
11 interference).

12 In Section 4 -- and if I need to do, you know, chase
13 and define terms, I will, but Paragraph 4 says, "Fieldwood
14 hereby agree that Farmor's override" -- and that's the override
15 we're talking about here. And again, if we need to chase the
16 defined terms, we can. But "Farmor's override is not to be
17 considered a subsequently created" (audio interference) because
18 Fieldwood is misapplying what that concept means from an
19 operating agreement standpoint. And quite frankly, they have
20 gotten the benefit of that provision directly when they went
21 non-consent and created the situation we're in today.

22 Now, in addition to -- I'll move to -- in case I
23 didn't, I'd like to move to admit 774-2.

24 THE COURT: Any objections?

25 MR. PEREZ: No objection, Your Honor.

1 THE COURT: 774-2 is admitted.

2 (ECF 774-2 admitted into evidence)

3 THE COURT: When preparing for the hearing, I believe
4 -- I may have this wrong -- that Fieldwood said that the term
5 "subsequently created interest," although capitalized in this
6 document, isn't defined anywhere. Is that right or do you
7 disagree with that? And I may have my memory wrong.

8 MR. GOODWINE: That is correct, but it's also, I
9 think, a fairly well-understood concept. And even though it's
10 not defined, the context around it does very specifically
11 appear in 19.1, which both parties I'm sure are prepared to
12 talk about today.

13 THE COURT: And let's go back and let me look at 19.1
14 then.

15 MR. GOODWINE: Okay. That would be 774 (audio
16 interference) 132 of 185 (audio interference) wanted to find it
17 through the ribbon.

18 THE COURT: You said 132?

19 MR. GOODWINE: Correct. 774 dash (audio
20 interference) --

21 THE COURT: I'm there.

22 MR. GOODWINE: Okay. This deals with "Overriding
23 Royalties and Burdens on Production." Let me give you the high
24 level first, then we'll look at the words.

25 THE COURT: Yeah. Why don't you just hold on and let



1 me read this.

2 MR. GOODWINE: Okay.

3 (Pause)

4 THE COURT: All right. Go ahead, please.

5 MR. GOODWINE: First of all, I think you'll notice
6 that the words "subsequently created override" aren't used in
7 there, but I think we'll all agree that it doesn't have an
8 independent definition anywhere within the agreement. I think
9 we've all scoured for it, and it's not there.

10 But the concepts in 19.1, before we talk about the
11 exception to the carve-outs that the parties made, specifically
12 agreed to, is probably best explained through an example. And
13 that would be if you, I, and Mr. Perez were three owners under
14 this operating agreement, and I granted an override in favor of
15 Mr. Clifford or Mr. Carlson, and I go non-consent, that
16 subsequently created interest I would remain bound to pay, and
17 the obligation would not pass to you and Mr. Perez as the
18 participating parties when I go non-consent. That's the
19 general application of the concept.

20 When you look at the treatment of the Davis override,
21 which has nothing to do with our dispute, they're basically
22 saying specifically that we're not going to treat that override
23 that way, such that if I go non-consent in our example, you and
24 Mr. Perez as the participating parties would pick up the
25 obligation to cover that override.



1 Now, when we looked previously at Exhibit 2 and saw
2 that Farmor's override is not to be considered a subsequently
3 created interest, it's basically saying it's going to be
4 treated as an exception to the general rule under 19.1. And
5 that's exactly what happened. We can get into the weeds and
6 the nuances, that Fieldwood, you know, bought the overriding
7 question from Shell. It was also a non-operating working
8 interest owner to the tune of 15 percent, so it was both a
9 recipient and an obligor under the override.

10 When they went non-consent, LLOG picked up that
11 15 percent from an obligation perspective and is now paying
12 100 percent of the override, not what used to be its 85
13 percent. So, to be blunt, 19.1 worked for the parties exactly
14 like it was supposed to based upon Section or Paragraph 4 in
15 Exhibit 2.

16 Now what's my main point? 19.1 has nothing to do
17 with collateral. It has nothing to do with the grant of a
18 security interest. It has nothing to do, to the rights of
19 parties under Exhibit I if they need to take action to protect
20 their interest. It's simply a regulator on who has to pay an
21 override in a non-consent scenario. And so their reference to
22 the fact that the subsequent created interest creates a viable
23 argument to defeat the attachment of LLOG's security interest
24 to the override, it's just a red herring. It just doesn't
25 match up.



1 What I would like to call your attention to is that
2 19.1.1, which does not use the words "subsequently created
3 interest," it just refers more generically to an override
4 subsequently created, at the end of the day in the last two
5 lines, all those overrides -- and this shall override that
6 Fieldwood now owns squarely fits into this -- were "made
7 specifically subject to all the terms and provisions of this
8 agreement and shall be subordinate to the rights of the other
9 parties to this agreement."

10 Now we don't win or lose because that language is in
11 19.1.1, but it clearly indicates that when parties create
12 overrides after this agreement is effective, and the shall
13 override was certainly one of those that Fieldwood now owns,
14 that the override interest is going to be subordinate to the
15 other rights of the parties under the agreement, and from
16 LLOG's perspective, that includes their obligation to pay for
17 plugging and abandonment, and that also induces the security
18 interest that we're asserting today.

19 So -- and Your Honor, we can look at, I think, other
20 places in which the records indicate that LLOG has basically
21 ratified the grant of the security interest, and the key
22 component is the after acquired title, and it's basically
23 dealing with all of their interests within the contract area.
24 And since the override squarely is to the exact same aliquots
25 and depths associated with the Green Canyon Block 201, that the



1 security interest encompasses the override.

2 So with that, Your Honor, I think I've hit the high
3 points, obviously, and we may go through some cross-examination
4 of Mr. Dane in a bit. But do you have any questions about the
5 theory or the argument that allows LLOG to go from being the
6 only remaining working interest owner due to Fieldwood's
7 non-consent, and then at the end of the day having a grant and
8 attachment and a perfection of the security interest against
9 the override? And again, we wouldn't be here arguing if there
10 weren't "after acquired title" within the security interest
11 grant, because that's what's important at the end of the day.

12 THE COURT: Thank you, Mr. Goodwine.

13 Mr. Perez, are you going to make your opening or is
14 someone else from your team going to make the opening?

15 I can't hear you, Mr. Perez.

16 MR. PEREZ: Your Honor, I'm going to make the
17 opening.

18 THE COURT: All right.

19 MR. PEREZ: Would you mind making Erin Choi the
20 presenter?

21 THE COURT: Of course. All right. Ms. Choi is the
22 presenter.

23 MR. PEREZ: Thank you, Your Honor. I have a couple
24 of slides that would aid in our argument this morning, Your
25 Honor. And I believe in discussions with Mr. Goodwine we had



1 Exhibits 1 through 25 that he had agreed to admit. I think
2 they're largely pretty much the same exhibits as he had, except
3 for the plan and disclosure statement.

4 We did file last night at 778-1 what is basically our
5 Exhibit 26, which is a -- it's similar to one of their
6 exhibits, but it has the amounts that we believe are set-offs.
7 We haven't had a chance to talk to Mr. Goodwine about whether
8 he is okay with that. But at least with respect to Exhibits 1
9 through 25, we would move for their admission.

10 THE COURT: Is there any objection to the admission
11 of 775-1 through 775-26, which encompasses 1 to 25?

12 MR. GOODWINE: No, Your Honor, with the caveat that
13 we were going to loop back at the end and try to get the
14 balance of ours admitted also. The only caveat I'd throw out
15 -- and I'm not trying to play games with it obviously, but if
16 we're going to agree to the admittance of what they filed last
17 night, which I think is more in the form of a demonstrative
18 than it is, quote unquote, "evidence," we would ask for the
19 same treatment of our Exhibit 26, which is something (audio
20 interference) --

21 THE COURT: So he hasn't offered 26 yet. He's only
22 offered 1 to 25.

23 MR. GOODWINE: I'm talking about our 26. LLOG's 26.

24 THE COURT: I know, but he's not offering his -- he
25 hasn't yet. I think he may in a moment. He's offered 775-1



1 through 26, which is actually his Exhibits 1 through 25.

2 MR. GOODWINE: My apologies. I thought he had picked
3 up what he filed last night.

4 THE COURT: I did not. So do you have any objection
5 to the ones he filed at 775?

6 MR. GOODWINE: No. No objection.

7 THE COURT: 775-1 through 775-26, which are Exhibits
8 1 through 25, are admitted.

9 (ECF 775-1 through 775-26 admitted into evidence)

10 MR. PEREZ: Thank you, Your Honor. So, Your Honor,
11 we have a few slides to kind of set forth our position, but let
12 me just make a couple of preliminary comments before I get
13 started, in response to Mr. Goodwine.

14 Number one, I don't believe that they have a grant of
15 this interest in the override. That's basically point number
16 one. Point number two, even if they do have that, I don't
17 think it's properly perfected. And then, Your Honor, we get to
18 the point of the amount of -- that is owed, and I'll address
19 that.

20 But Ms. Choi, if you could turn to the first slide,
21 please.

22 And then, Your Honor, I assume we're handling both
23 motions together, that we're not separating them, so I'll treat
24 them both together. I believe that's the way Mr. Goodwine
25 treated them.



1 THE COURT: I agree. I think that's what he did.

2 MR. PEREZ: Okay, Your Honor. So, Your Honor, this
3 slide just asks for what their relief is. And I think
4 Mr. Goodwine has articulated, so I think we could move to the
5 next slide, please.

6 So, Your Honor, just to be clear, it's their burden
7 with respect to showing that they have a claim, that it's
8 secured by a validly perfected lien, and that there's a decline
9 in value. In addition -- and that's their burden, both with
10 respect to the motion to lift stay and the motion for adequate
11 protection.

12 Next slide.

13 So, Your Honor, in their brief -- in their reply, I'm
14 sorry -- they clarified that the relief they requested was as
15 to the as-extracted collateral. We don't believe, Your Honor,
16 that there is any mortgage on the override itself, number one.
17 Number two, that attaching a description to the UCC doesn't
18 create a mortgage interest with respect to the collateral.

19 And then, Your Honor, there are a couple of technical
20 arguments that even if they do have a UCC that covers this,
21 that it is -- that these are actually rents, and that rents
22 have to be -- because of the nature of the override, which was
23 kind of -- it was assigned to LLOG and then assigned back, and
24 that made it a sublease, and therefore that they would have to
25 have an actual mortgage to be perfected with respect to that.



1 But again, we'll go forward.

2 But we should go to the next slide.

3 Your Honor asked what the definition of an ORRI is,
4 so from the ATP case, which the Court may remember, this was
5 what -- this is what the Fifth Circuit said, an overriding
6 interest is a royalty interest. It's an interest in gas
7 produced free of expenses of production, and moreover it's a
8 real right, albeit non-possessory. So I don't know if that
9 answers the Court's question as to what the definition for an
10 override is.

11 So, Your Honor, if we go to the next page, this is, I
12 believe, kind of the most important thing. And we need to look
13 at the time line. First of all, there are two leases here.
14 Green Canyon 157, Green Canyon 2000 -- 201. So in 2002, LLOG
15 and Davis entered into an operating agreement, and that
16 operating agreement did grant a security interest, and we'll
17 look at that language in a minute.

18 In October of 2008, Shell and Marathon -- Shell and
19 Marathon assigned its working interest to LLOG and Davis in the
20 -- and the 2001 agreement is as to the 157, Green Canyon 157
21 block. In 2008, Shell and Marathon assigned to LLOG and Davis
22 its interest in the 201 block. And at that point, they
23 reserved an override in the 2001 [sic] block.

24 And so, Your Honor, Exhibit 4 is the farmout pursuant
25 to which this happened. Exhibit 5 is the actual assignment of

1 the working interest pursuant to which Marathon and Shell
2 assigned it to LLOG and Davis. And then Exhibit 6 is the
3 assignment of the ORRI back to Shell and Marathon at the time.

4 So in 2014, Fieldwood acquired Davis's interest, and
5 Fieldwood and LLOG entered into an operating agreement. So in
6 August of 2014, Fieldwood acquired Davis's 15 percent interest
7 in Block 2005. In December, LLOG and Fieldwood agreed to
8 ratify the operating agreement -- that's the operating
9 agreement that we've been referring to above us from 2002, that
10 was amended to include Lease 201.

11 That agreement we specifically agree that the ORRI
12 was not to be considered subsequently created interest. And
13 that's important. And so later in 2015, Fieldwood acquired
14 from Shell the assets, and Shell assigned the ORRI, which
15 basically had been carved out in 2014, at that time, and they
16 acquired that in 2015. So after that agreement.

17 So if you turn to the next page, Your Honor -- I mean
18 Ms. Choi.

19 So here's what we have. And the top line is the
20 ownership of the working interest in 2000 -- in Field 201, and
21 the ownership of the ORRI. So in 2002, they entered into the
22 operating agreement for Lease 157. In 2008, Marathon and Shell
23 each owned a 50 percent interest in Lease 201. In 2008, they
24 did a farmout to LLOG and Davis. And in 2014, Fieldwood
25 acquired Davis's working interest in 2001 [sic]. So that's



1 the working interest.

2 So at the bottom you see has the ownership of the
3 ORRI. So at the time of the farmout, the ORRI was created. In
4 December of 2014, LLOG and Fieldwood ratified the prior
5 operating agreement that -- to include Green Canyon 201,
6 specifically agreeing that that -- that the ORRI that had been
7 created in favor of Shell and Marathon would be -- would not be
8 considered "subsequently created interest" under 19.1.

9 And then in 2001 -- in 2015, Shell assigned the
10 interest, and Marathon still owns the 4.875 interest in it, and
11 Fieldwood has the other interest.

12 THE COURT: So, Mr. Perez --

13 MR. PEREZ: If you turn the page --

14 THE COURT: Just to understand your argument better,
15 are you telling me that because it is not a "subsequently
16 created interest" that it's also not an "after acquired
17 interest," and therefore doesn't come into their security
18 agreement? Or is there another reason it doesn't come into
19 their security agreement?

20 MR. PEREZ: No. I think that's correct, Your Honor.
21 Because --

22 THE COURT: Sorry. You said no, you think it's
23 correct. So I don't understand that.

24 MR. PEREZ: Apologize, Your Honor. I said that we
25 believe that because it was not a "subsequently acquired

1 interest," and was specifically carved out, that -- and
2 confirmed that it was a cost-free interest, that even if we
3 subsequently acquired it, it would not be part of the
4 collateral grant. There was no grant for that to begin with --

5 THE COURT: But is that -- is there no grant because
6 it is not a subsequently acquired interest? Meaning that -- or
7 an after acquired interest? Meaning that you are telling me to
8 treat the term "subsequently created" undefined the same as I
9 was treat the term "after acquired"? Or are you telling me
10 something different than --

11 MR. PEREZ: Yes, Your Honor. Yes, Your Honor.
12 That's exactly what I'm saying. Because otherwise, then you
13 would have to read out both 19.1 and 19.1.1 out of the
14 operating agreement as it reacted to the Davis ORRI, not to the
15 one we're talking about.

16 THE COURT: Right. So hold on a minute. So if there
17 was not the exclusion of subsequently created interests in the
18 agreement, in the ratification, are you telling me they would
19 have otherwise had a valid security interest? In other words,
20 are you challenging that they had a security interest in an
21 after-acquired ORRI, but the reason they don't have one in this
22 one is because of the subsequently created interest provision?

23 MR. PEREZ: Your Honor, I'm actually saying both
24 things, but for different reasons.

25 THE COURT: Okay. Divorcing it then from the

1 subsequently created interest, why does there after-acquired
2 property interest not capture the ORRI? Some independent
3 reason --

4 MR. PEREZ: Well -- so, Your Honor, there's a couple
5 of them. Number one, because there is no mortgage filing as to
6 the ORRI that we're aware of. And there's no pledge of the
7 ORRI itself. There's a subsequently acquired interest.

8 So to the extent that you view this as a sublease, if
9 you will, because they -- we assigned -- Shell assigned it to
10 LLOG, LLOG assigned it back to Shell -- so if you look at that
11 as a sublease and treat this as rent, under Louisiana law, the
12 UCC doesn't cover rent and there is no pledge of the rents
13 under Louisiana law. So that's one reason, Your Honor.

14 Second reason, Your Honor, we don't -- to the extent
15 these are real property interests or real interests, there is
16 no mortgage that we believe covers these interests. We do have
17 the UCC that has a memorandum attached, and Mr. Goodwine was
18 kind enough to send us the UCCs that were not originally
19 attached to his motion. But again, only to the extent that
20 these are personal (audio interference) and only to the extent
21 that these would be covered as after-acquired property, would
22 there be a -- would there be a lien upon them.

23 THE COURT: So is it your position that under
24 Louisiana law, to have a lien on an ORRI, you must have a real
25 property filing?



1 MR. PEREZ: For a lien on an ORRI, absolutely, Your
2 Honor. I think that's correct. They don't claim a lien on the
3 ORRI. They only claim a lien -- at least by, you know, their
4 reply, upon the as-extracted collateral.

5 THE COURT: No, I think Mr. Goodwine's argument is
6 they have a lien on the ORRI itself. Because he says that that
7 is an interest in real property, and therefore their subsequent
8 acquired property provision applies to the ORRI itself.

9 Because that was the question I asked him, is do you
10 have a lien on proceeds underlying it, or do you have a lien on
11 the amounts received under the ORRI itself? And he said no,
12 our lien is on the ORRI itself. I thought --

13 MR. PEREZ: So, Your Honor, if that's the case, then
14 I haven't seen a pledge or a grant of -- there's a real
15 property interest, I haven't seen that there is a mortgage
16 covering this real property interest.

17 THE COURT: Right.

18 MR. PEREZ: With a definition.

19 THE COURT: Thank you.

20 MR. PEREZ: So, Your Honor, the bottom part of this,
21 you know, basically shows we believe that it was specifically
22 excluded in the December agreement -- the amended, and that
23 afterwards, when Shell assigned the ORRI to Fieldwood, that it
24 would not be covered.

25 So if you turn to the next page, so this is where



1 Mr. Goodwine seeks to impose his security interest and -- in
2 favor of the operator. And this is -- we're talking about a
3 security interest here. We're not talking about a mortgage.
4 And it's a security interest in all the gas -- oil and gas
5 produced, as well as the cash proceeds therefrom. This was
6 with respect to Contract Area 157. I don't think that we
7 dispute that. That's Exhibit Number 5.

8 And then we get into, Your Honor -- on the next slide
9 -- so they specifically -- they talk about carved out interest,
10 and that has to have some meaning, Your Honor. Again, in
11 Exhibit I, carved out from what. And we don't believe that
12 it's just a carveout from going non-consent. It's -- I mean,
13 you have to give it some effect. Otherwise, it wouldn't have
14 any effect that, you know, shall specifically make them
15 inferior to the rights of the parties to this agreement.

16 So -- but -- and when you go to -- this is the
17 exhibit to the agreement, Exhibit 5. And then when you go back
18 to the operating agreement, when you go back to the actual
19 language, on the next slide, there the 19.1 and 19.1.1, you
20 know, specifically carves it out.

21 And the way we read this, Your Honor, is we read this
22 to say in a situation where you have multiple -- where you have
23 multiple working interests that -- and you acquire additional
24 working interests, then your working interests would become a
25 subject to it, to this -- basically to the subsequently

1 acquired. So there's no question that subsequently acquired.

2 If you then create -- and the situation -- this is a
3 little different than the situation in ATP. In ATP, a working
4 interest was subsequently created, and based on Louisiana oil
5 lien statute, it was cut off because it was a bona fide
6 purchaser. We don't have that situation here. But I think
7 what this is saying is you can't use an override to get out of
8 your obligations under, you know, your working interest. You
9 can't use that to do it. But in this case, they specifically
10 carved out the Davis override which existed, and that was the
11 same thing that was done pursuant to the farmout with Shell.

12 So next, Your Honor -- so this is all back in 2002.
13 In 2008 -- and if you go to the next page, yeah. You have the
14 farmout with Shell. And so it's important that it was -- the
15 farmout conveyed all of the working interests to LLOG and
16 Davis. And then LLOG and Davis conveyed the work -- the
17 override back to Shell and Marathon and -- pursuant to Exhibit
18 6. And you know, the ORRI created was free and clear of all
19 costs of exploring, operating, developing, producing,
20 maintaining, in force and effect, and abandoning the contract
21 area and all costs of compression. So it was clear that it was
22 intended to be cost-free.

23 If you go to the next page, Your Honor, the operating
24 agreement -- the assignment of the operating rights was --
25 expressly required LLOG to reconvey this back and to reconvey

1 it the way they did, which was cost-free. And this is the
2 terms of the assignment. And sometimes, you know, LLOG and
3 Davis are referred to as J. Bellis, and Shell and Marathon are
4 referred to as -- Troika.

5 And when you look at -- you go to the next page, in
6 the actual assignment, which is Exhibit 7, Your Honor, it says
7 that that assignment is -- that that assignment was made -- it
8 was not assigned -- the operating rights were not assigned
9 subject to the operating agreement.

10 So if you go to the next page, Your Honor, there is
11 no -- there was an integration clause which said that there was
12 really -- there were no other agreements and that the ORRI and
13 the conveyances superseded and replaced all other prior
14 agreements, whether written or oral, between the parties.

15 So in August of 2014 -- if you go to the next page,
16 Your Honor, we -- Fieldwood purchased Davis's 15 percent
17 interest in Green Canyon 201. That's Exhibit 9. And these are
18 the subject lands. Then -- and here, I think, is kind of the
19 important -- this is the important language. In 2014,
20 Fieldwood acquired Davis and Fieldwood and LLOG amended the
21 operating agreement.

22 So at the time, in Exhibit Number 11, we -- it was
23 amended to include Green Canyon 2001 [sic] lease to the
24 contract area. So this is the first time that the operating
25 agreement in connection with -- in connection with the Green

1 Canyon 157 becomes applicable to this. And so in Paragraph 2
2 it adds it.

3 But in Paragraph 4, they specifically say that the
4 LLOG and Fieldwood ORRI is not to be considered a "subsequently
5 created interest" for purposes of 19.01. So it carves out that
6 from -- continues -- it continues to be a cost-free. Then
7 subsequently, Your Honor, in 2015, after the fact on the next
8 page, Fieldwood acquired the -- all of Shell's interest
9 including the override at the time in July of 2015.

10 So if you go to the next slide, Your Honor, if we go
11 to the next slide, the ownership interest, I think, is in --
12 the working interest, I think, it's pretty clear, but I think
13 the key aspect of it is that at least as late as December and
14 -- of 2014 when the -- when, for the first time, the 2001 --
15 the -- I'm sorry. I keep saying 2001, but I mean 201, the
16 Green Canyon 201 lease was added to the December 2002 operating
17 agreement on Green Canyon 157, they confirmed that it was not a
18 subsequently created interest, and then Fieldwood purchased it
19 later in 2015.

20 So, Your Honor, if you go to the next slide, you
21 know, we don't believe that they have a valid security interest
22 in it, because by its expressed terms, it would -- you know,
23 basically, it was the intent of the parties that that be
24 excluded. There's certainly plenty of written evidence to that
25 effect, that even if -- even if valid, we -- even if they did

1 have a -- if they did have a security interest, we don't
2 believe that it's properly perfected based on the documents.
3 And in any event, we don't believe that adequate protection is
4 necessary and appropriate in this circumstance.

5 THE COURT: Mr. Goodwine, before we proceed with the
6 evidence, I want you to respond to one of the arguments that
7 Mr. Perez makes. He makes this out of the assignment and
8 conveyance of the ORRI and he says that the assignment and
9 conveyance was free and clear of all the costs. But then he
10 points out Subparagraph (vii) of the agreement, (vii) says
11 "there are no further understandings, representations,
12 warranties, or obligations pertaining to the ORRIs, and this
13 conveyance supersedes and replaces any and all prior
14 agreements, whether written or oral, between the parties."

15 Tell me how your lien interest, however it might come
16 about, wasn't obliterated by that provision.

17 MR. GOODWINE: Which exhibit is that, Your Honor?

18 THE COURT: It's his 775-8, his Exhibit 6. You
19 showed me the same one, but I wrote down his number when he was
20 going through it.

21 MR. GOODWINE: Okay. So it's -- you said Paragraph
22 (vii)?

23 THE COURT: Well, it starts with "free and clear"
24 language, but then Paragraph (vii) seems to have an integration
25 clause that he argues anyway, and I don't understand why he's

1 not right, eliminates any other agreement pertaining to the
2 ORRIs.

3 MR. GOODWINE: Well, what I think you need to
4 understand, Your Honor, is that this agreement, or this
5 paragraph, or actually this conveyance and override at the time
6 was between Davis and LLOG, who were bound by the operating
7 agreement as owners of what they call the J. Bellis aspect of
8 156 (audio interference) 201 --

9 THE COURT: Right.

10 MR. GOODWINE: -- and Shell and Marathon did not --
11 were not a party to that agreement. So the original parties
12 could say that there are no other agreements (audio
13 interference) later on and impact a party that so happens to
14 acquire the override on a completely separate transaction. So
15 again --

16 THE COURT: Wait a minute. Well, hold on. This
17 agreement is -- your client is a party to the agreement.

18 MR. GOODWINE: Correct.

19 THE COURT: So it's bound by this, right?

20 MR. GOODWINE: Again, Your Honor, the expectation is
21 -- how do I say it? At the time that this was done -- I'm
22 going to just make the assumption or -- for argument's sake,
23 that Fieldwood's a party, even though Davis on it, because
24 Davis is the predecessor to Fieldwood.

25 So when Fieldwood and LLOG assigned this interest to,

1 at the time, Shell and Marathon who were basically reserving
2 the override as they conveyed the interest in the northeast
3 quarter of Green Canyon 201, at the end of the day, that
4 interest was then added to the operating agreement from a
5 working interest perspective only. And so the parties that
6 were the recipient of the overrides at the time were completely
7 non-parties to the operating agreement. There was no
8 connection between the two.

9 So in 2015 when Fieldwood comes in and in a
10 completely separate transaction, you know, it wasn't they only
11 thing they bought. They bought a few other overrides -- and we
12 haven't looked at -- it's under seal, but there are, you know,
13 major purchase agreements for Troika and Hickory, which I think
14 are their Exhibits 10 and 11. It's just by coincidence that
15 Fieldwood ends up being an owner at the end of the day.

16 So Fieldwood wearing its hat as an override owner is
17 not the same as Fieldwood is working interest owner that's
18 created all these obligations under the operating agreement.
19 It's apples and oranges.

20 THE COURT: So are you agreeing, though, that the
21 assignees under the assignment and conveyance of the ORRI took
22 it free of your previously filed liens on the proceeds?

23 MR. GOODWINE: You can't answer that question because
24 they were not parties to the operating agreement.

25 THE COURT: Did they take it free of any lien that

1 you had on the proceeds?

2 MR. GOODWINE: At the time, because they did -- they
3 weren't under a security arrangement or mortgage at that time.

4 THE COURT: Well, no, but you --

5 MR. GOODWINE: And again, Shell --

6 THE COURT: -- had a previous -- you had a previously
7 filed -- I thought you had a previously filed agreement that
8 would've given you a lien on all of the proceeds.

9 MR. GOODWINE: Not until --

10 THE COURT: And I just want to be sure that your
11 position is that the assignees under this agreement would not
12 have been subject to any lien you had on the proceeds, or maybe
13 that's not your position. I just want to know do you think
14 they were bound or not bound by any liens on proceeds?

15 MR. GOODWINE: Shell and Marathon were not, because
16 they were not parties to the operating agreement. The lien
17 through after-acquired title came into effect vis-a-vis the
18 override in 2015.

19 THE COURT: So you agree --

20 MR. GOODWINE: So this --

21 THE COURT: -- that the assignees under this
22 agreement did not have -- they took it free of any rights you
23 had in the proceeds?

24 MR. GOODWINE: As to the override, yes.

25 THE COURT: Okay.



1 MR. GOODWINE: At that time.

2 THE COURT: I do understand your answer. I'm just
3 trying to get this one step at a time. You've got to
4 acknowledge, this is a pretty confusing issue. So why don't we
5 go ahead with your evidence, in addition to the --

6 MR. GOODWINE: Okay. Well --

7 THE COURT: -- documentary evidence that you have.
8 What type of other evidence do you have?

9 MR. GOODWINE: Well, a couple of issues, some
10 housekeeping, some in reply to questions you had asked before.
11 Number one, just I had a note on my screen the entire
12 time to at the end move to introduce all of our exhibits. I'd
13 like to do that now because in response to something Mr. Perez
14 had said in some of your Q and A, I'm going to refer to a
15 document we haven't referred to yet. So I move to admit, if
16 they weren't previously admitted, L-1 through -- I guess it's
17 L-41, although none of us have talked about the plan or
18 disclosure statement yet.

19 THE COURT: 774, I've got 1 to 39. I don't see 40
20 and 41 yet. They may be subsequently filed.

21 MR. GOODWINE: 774-1, I'm looking at and I go through
22 -- 41. 40 and 41 are the debtors' plan and 41 is the
23 disclosure statement.

24 THE COURT: 774 only has 39 attachments.

25 MR. GOODWINE: Okay. Then I'll cut it off at 39.



1 THE COURT: All right. Any objection to 774-1 to 39?

2 MR. PEREZ: Your Honor, with respect to Exhibit
3 Number 3, 774-3, that appears to be, you know, a letter that is
4 prepared by a land title -- I'm not sure I understand the
5 purpose of why it's being admitted, but it's hearsay.

6 THE COURT: Okay. What other ones do you object to?

7 MR. PEREZ: And then, Your Honor, the only other ones
8 -- I don't have any objections to any of the other exhibits,
9 Your Honor.

10 THE COURT: All right. 77 -- to the extent not
11 previously admitted, 774-1 and 2, and 4 through 39, are
12 admitted. 774-3 may be offered during the course of the
13 proceedings when you can prove it up.

14 (ECF 774-1 and 774-2 and 774-4 through 774-39 admitted
15 into evidence)

16 THE COURT: Let's go ahead and do the rest of the
17 evidence. We'll close the evidence, and then I'm going to let
18 you make closing arguments.

19 MR. GOODWINE: Okay. Do you want an answer to your
20 question that was posed directly to us on the Mineral Code, or
21 do you want me to save that for --

22 THE COURT: Whichever way you want to go on that.

23 MR. GOODWINE: Okay. No, I'd just like to step you
24 through it, and we appreciate what Mr. Perez put on the screen.
25 (Audio interference) perspective, I think that what you need to

1 do is step through a couple of different provisions of the
2 Mineral Code.

3 It's the Louisiana Revised Statute 31:16, which
4 establishes that a mineral lease itself is a mineral right
5 which is "immovable," as we call it, or a "real right."

6 31:18 is what makes the mineral right an immovable.

7 31:126 is what pulls you into override land, and
8 pursuant to 31:126, that provides an interest created out of a
9 mineral lessee's interest is dependent on the continual
10 existence of the mineral lease. And under the comments, what
11 you'll find is that they tie that back to overrides which
12 creates the override being an immovable interest, also, which
13 makes it susceptible to mortgage. And so that's the answer to
14 your question.

15 Also, 31:203 specifically says that mineral rights,
16 pursuant to 126, includes overrides, are also susceptible to
17 mortgage.

18 Now, we can go through the various places where we
19 believe there's an (audio interference) grant of the security
20 interest -- an underlying mortgage and security interest --
21 actually covers both. We've already plowed the ground on
22 Exhibit 38, but from a public records filing perspective, we'd
23 like to call your attention to Exhibit 4, which also includes
24 the grant language. So both from an underlying override and
25 the as-extracted collateral, we believe we have both.

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1 The reason why we're concentrating today on
2 as-extracted collateral is simply because that's what (audio
3 interference) relief is centered around. We're not asking to
4 take the override. You know, that may happen as a part of the
5 plan process or what happens under (audio interference). From
6 the standpoint of what we wanted to do in a measured way, it
7 was simply targeted to escrowing the proceeds which puts you
8 into security interest land (indiscernible).

9 So we do have some other comments we'll save for
10 closing arguments, but I'd like to call Mike Dane.

11 THE COURT: All right. Mr. Dane, would you raise
12 your right hand, please, sir. Let me go ahead and get your
13 phone activated, as well. If you'd press "five star."

14 Good morning, Mr. Dane. Would you raise your right
15 hand, please.

16 MICHAEL T. DANE, LLOG EXPLORATION COMPANY'S WITNESS, SWORN

17 THE COURT: Thank you, Mr. Dane.

18 Go ahead, please, Mr. Goodwine.

19 DIRECT EXAMINATION

20 BY MR. GOODWINE:

21 Q Good morning, Mr. Dane. Can you please state your name
22 and title with Fieldwood Energy Offshore for the record?

23 A It's Michael T. Dane, Senior Vice President and Chief
24 Financial Officer of Fieldwood.

25 Q How long have you been active in the oil and gas industry?



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1 A Since 2006.

2 Q Okay. Who did you work for before Fieldwood?

3 A Dynamic Offshore Resource.

4 Q Anyone before that?

5 A SunTrust Robinson Humphrey.

6 Q I'm sorry. Can you please repeat that?

7 A Sorry. SunTrust Robinson Humphrey.

8 Q Okay. Would it be fair to say that during the span of
9 time between 2006 and today, your career's been focused on oil
10 and gas?

11 A That's correct.

12 Q And what percent of that is offshore oil and gas?

13 A Since I've been involved, on the industry side, my -- most
14 of my career, since 2008.

15 Q Are you familiar with the standard -- or I guess -- strike
16 that.

17 Are you familiar with the concept of offshore drilling
18 operating agreements?

19 A Yes, sir.

20 Q All right. And you're the spokesperson for Fieldwood
21 today. Is that correct?

22 A Yes.

23 Q And are you, with your job responsibilities, plugged into
24 the investment decisions for Fieldwood?

25 MR. PEREZ: Object to the form of the question.



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1 Vague.

2 THE COURT: Sustained.

3 BY MR. GOODWINE:

4 Q Do you participate in the various investment decisions
5 that Fieldwood has made since the beginning of 2020?

6 MR. PEREZ: Same objection, Your Honor.

7 THE COURT: Sustained.

8 BY MR. GOODWINE:

9 Q Can you please tell the Court how Fieldwood goes about
10 making decisions whether to consent or non-consent to
11 operations proposed by operators on properties in which
12 Fieldwood is a non-operating working interest owner?

13 MR. PEREZ: Objection to the question, Your Honor.
14 Relevance.

15 THE COURT: How is this relevant to the adequate
16 protection question that you're posing?

17 MR. GOODWINE: At the end of the day, Your Honor,
18 we're going to be talking about their decision to go
19 non-consent, and I want to make sure that Mr. Dane was plugged
20 into that decision.

21 THE COURT: Sustain the objection. I don't see how
22 that's relevant to the adequate protection question.

23 BY MR. GOODWINE:

24 Q Is it true that Fieldwood went non-consent as to
25 operations on Green Canyon Block 201 in early 2020?



1 A Yeah, that's correct.

2 Q Is it true that companies go non-consent when they do not
3 believe further operations are a good investment?

4 MR. PEREZ: Object to the form of the question.
5 Calls for speculation.

6 THE COURT: Sustained.

7 BY MR. GOODWINE:

8 Q Can you tell me why Fieldwood decided to go non-consent on
9 Green Canyon 201 operations?

10 MR. PEREZ: Objection. Relevance.

11 THE COURT: Overruled.

12 THE WITNESS: We evaluated the economic merits of
13 this project and we thought about our capital availability at
14 the time. And between those factors, we determined it was best
15 for Fieldwood to go non-consent.

16 BY MR. GOODWINE:

17 Q Okay. And by going non-consent, you did not have to
18 participate in the risk of future production. Is that correct?

19 A That's correct.

20 Q (Audio interference).

21 A I think that's partially correct. I mean, joint operating
22 agreements have certain back-end rights with respect to
23 non-consent. And so there is the potential to benefit and to
24 have risk, even if it's not immediate.

25 Q Understood. But you decided that further participation as

1 a non-working interest partner in Green Canyon 201 was not
2 worth the risk as the operations were proposed by LLOG. Is
3 that correct?

4 MR. PEREZ: Object to the question. Misstates his
5 testimony.

6 THE COURT: I think that question is asked and
7 answered. You asked him why. He gave multiple reasons. Now
8 you're focusing only on one of the reasons. I don't think it's
9 a fair way to go about it.

10 BY MR. GOODWINE:

11 Q Okay. Isn't it true that Fieldwood plans to abandon Green
12 Canyon 157 and the northeast quarter of Green Canyon 201
13 pursuant to the procedures in this bankruptcy?

14 A The disclosure statement that we recently filed, it does
15 have -- it currently does have those interests as abandoned
16 properties.

17 Q Okay.

18 A With respect to the working interest.

19 Q Who will be paying for that plugging and abandonment on
20 Green Canyon 157 and Green Canyon 201 on a go-forward basis?

21 MR. PEREZ: Object to the question, Your Honor.
22 Again, I don't know that that's relevant to this -- to the
23 adequate protection question.

24 MR. GOODWINE: If I may, Your Honor, it has
25 everything to do with it, because it's --

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1 THE COURT: Overruled. Overruled.

2 THE WITNESS: If it becomes an abandoned property,
3 then predecessors and co-working interest owners would have to
4 satisfy the financial responsibility for plugging and
5 abandonment.

6 BY MR. GOODWINE:

7 Q Okay. I'd like to call your attention to Debtors' Exhibit
8 6.

9 MR. GOODWINE: Ms. Johnson, can you call that up on
10 the screen?

11 Or Mr. Dane, if you're comfortable being able to call
12 it up, that will work, too.

13 THE COURT: Let me make Ms. Johnson the presenter,
14 and she can pull it up on the screen. She's now the presenter.

15 MR. GOODWINE: Debtors' Exhibit 6. And for the
16 record (audio interference) be 775-8.

17 Apologies, Your Honor. This is the first time we're
18 going through this with your --

19 THE COURT: I've told a lot of people that the only
20 thing I've really learned well through COVID is patience with
21 technology, Mr. Goodwine, so we'll take a minute to get there.

22 MR. PEREZ: I think Ms. Johnson must be related to
23 Mr. Carlson.

24 THE COURT: Ms. Johnson, if you'll put that in
25 full-screen mode, it's going to show up a little better.



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1 (Pause)

2 MR. GOODWINE: I think -- and Your Honor, we're only
3 going to talk about one specific portion of this, and it's
4 almost on the screen already. If we scroll, we might be able
5 to --

6 THE COURT: All right.

7 MR. GOODWINE: -- (audio interference) issue and move
8 on.

9 BY MR. GOODWINE:

10 Q First of all, Mr. Dane, are you familiar with this
11 document?

12 A I believe this is the assignment and conveyance of the
13 override that we've been discussing.

14 Q Yeah, correct. And it is that -- for context, this is the
15 original assignment between LLOG and Davis in favor of Shell
16 and Marathon Oil. Is that correct? If you look at the first
17 paragraph?

18 A That's -- that's what it appears to be.

19 Q Okay. And then if you look at the third recital or the
20 third "whereas" paragraph.

21 MR. GOODWINE: So, Lindsey, if you can scroll down
22 literally, just like three or four lines.

23 (Pause)

24 THE COURT: Ms. Johnson, I just saw that you had your
25 hand raised and wanted to speak. Go ahead, please.



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1 MS. JOHNSON: Yeah, and I apologize, Judge. I'm just
2 having some technical difficulties over here making my screen
3 -- sharing my screen and making it larger.

4 THE COURT: So I think if you'll just pull the slide
5 bar down, we'll be able to get to where you want to be.

6 MR. GOODWINE: Yeah, can you do that on the right-
7 hand side, Lindsey? Just literally slide down the document
8 about five lines?

9 MS. JOHNSON: Unfortunately, it just won't let me
10 grab it.

11 MR. GOODWINE: Okay.

12 MS. JOHNSON: I'm going to try again.

13 MR. GOODWINE: We'll come back to it -- to that.

14 BY MR. GOODWINE:

15 Q And I'll ask the question -- and Mr. Dane, I'm not trying
16 to set you up or trick you or anything, but do you see
17 literally right at the bottom of the screen, what's on there
18 now, there's a reference to the contract area associated with
19 this conveyance of overriding royalty interest. Do you see
20 that? It's --

21 MR. GOODWINE: I'm sorry, Lindsey. Go back up. It
22 was the third "whereas" paragraph, right before the "Now
23 therefore."

24 THE WITNESS: Yes, sir.

25 BY MR. GOODWINE:



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1 Q Okay. Is that the same contract area or -- strike that.

2 Is the contract area as defined with this conveyance of
3 overriding royalty interest the same northeast quarter of Green
4 Canyon Block 201 that's governed by the operating agreement?

5 A The operating agreement --

6 MR. PEREZ: Object to the question. Calls for a
7 legal conclusion, Your Honor.

8 THE COURT: Overruled.

9 THE WITNESS: Yeah, I believe it generally covers
10 that part of the contract area, in addition to other parts.

11 MR. GOODWINE: Okay. Let's see how we do in Round 2,
12 Ms. Johnson. Can we please call up Debtors' Exhibit (audio
13 interference) 6, which I think we're using as a demonstrative.

14 MS. JOHNSON: Debtors' Exhibit 6?

15 MR. GOODWINE: 46. Four-six. It's what they
16 uploaded last night.

17 I'm sorry. 26. I'm confusing ours and theirs.

18 MS. JOHNSON: Okay.

19 BY MR. GOODWINE:

20 Q Mr. Dane, this is the spreadsheet that y'all opened up
21 last night. We'll see it on the screen in a second. But are
22 you familiar with the spreadsheet that your attorneys uploaded
23 last night?

24 A Yes, I am.

25 Q Okay. And you see that there's an offset that you're



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1 trying to articulate in the amount of \$229,117.00, and that
2 relates to "ST 59#1 audit exception." Do you see that?

3 A Yes, I do.

4 Q Does ST -- what does "ST 59" stand for?

5 A It does sound familiar.

6 Q Does that have anything to do with these Green Canyon
7 properties or the operating agreement in question?

8 A No, it doesn't.

9 Q Has Fieldwood actually submitted itself an audit exception
10 to LLOG or was it asserted by Fieldwood's predecessors?

11 A There is a long history of communication that Fieldwood
12 submitted directly to LLOG on this issue.

13 Q And do you know whether or not the predecessor of
14 Fieldwood actually asserted an audit claim prior to its
15 assignment of South Timbalier 59 to Fieldwood?

16 A I'm aware that, like I mentioned, there is a long history
17 of communication, both with Apache, the predecessor I believe
18 you're referring to, and Fieldwood on this particular audit
19 exception.

20 Q Okay. Let me ask the question again, because I'm looking
21 for as clear of a direct answer as possible. Are you aware
22 that the predecessor, Apache, to Fieldwood and South Timbalier
23 59, asserted an audit claim consistent with the offset you're
24 looking for here?

25 A I'm not aware if they did or did not. No, I'm not aware.



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1 Q Okay. Is that then also true that you're not aware of
2 whether or not Apache had affirmatively compromised this claim
3 for the benefit of LLOG?

4 A As I mentioned, I know there was a long history of
5 communication on this issue, and I know that there was various
6 claims asserted at the beginning of the process, and that those
7 opinions changed over time as the parties understood what their
8 actual economic interest in this particular issue was.

9 So I apologize for not being more clear, but this was a --
10 this was an issue that dates back many, many years that was
11 unresolved.

12 Q Wholly understood. But you can confirm that Fieldwood
13 itself has not asserted an audit claim in favor -- or excuse
14 me, an audit claim against the operator LLOG. Is that correct?

15 A Fieldwood has -- has provided an audit exception here.

16 Q Okay. Do you know when that was provided?

17 A That would go back to 2013/'14.

18 Q When did Fieldwood acquire South Timbalier 59?

19 A It would have acquired that interest in the 2013
20 acquisition from Apache.

21 Q Okay. Is production from Green Canyon 157 and Green
22 Canyon 201 covered by the production handling agreement?

23 A Yes, I believe it is.

24 Q Okay. Can you explain -- is it the J. Bellis Production
25 Handling Agreement?



1 A Yes, I believe that's correct.

2 Q Okay. Can you explain the relationship between that
3 J. Bellis Production Handling Agreement and the operating
4 agreement -- and before Mr. Perez objects to that being
5 confusing, all I'm trying to do is to get you to explain to the
6 Court how production is processed and handled off-site under a
7 separate contract from the operating agreement.

8 A You're asking -- sorry. You mind clarifying? You're
9 asking for the relationship between those agreements?

10 Q Is production from Green Canyon 157 and 201 processed on a
11 third-party platform?

12 A I believe so.

13 Q Okay. And that is covered by the J. Bellis Production
14 Handling Agreement. Is that correct?

15 A Correct.

16 Q And under the operating agreement which is Exhibit 1 --

17 MR. GOODWINE: So 774-1, if we can call that up,
18 Ms. Johnson.

19 BY MR. GOODWINE:

20 Q So Exhibit C, I just want you to identify it before we
21 jump into the specifics. But Exhibit C starts on Page 159.
22 Are you familiar with Exhibit C and COPAS?

23 A No. No, I'm not. I'm familiar with COPAS generally. I
24 haven't read this as part of the operating agreement.

25 Q Okay. Are the COPAS provisions fairly standard in

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1 accounting procedures for oil and gas offshore operating
2 agreements?

3 A That is -- COPAS is generally the baseline that most
4 agreements start with.

5 Q Okay. And does COPAS include an overhead component?

6 A For certain charges, COPAS usually includes an overhead
7 component, but there are many specific excluded charges that
8 overhead is specifically disallowed.

9 Q Generally, overhead is an issue addressed by the COPAS
10 attachment to offshore operating agreements, including the one
11 in dispute here, correct?

12 A With respect to specific charges, overhead is something
13 that COPAS contemplates.

14 Q Okay. And on your Exhibit 26, which is Docket 782-1, you
15 have a couple of suggested offsets for the PHA fees associated
16 with that J. Bellis PHA. Is that correct?

17 A That's correct.

18 Q Do you know when you first raised those as potential
19 offsets with LLOG?

20 A I'm not aware.

21 Q I'm going to go LLOG Exhibit 2. (Audio interference) Page
22 3 (audio interference) Mr. Dane to confirm that LLOG is a
23 partner to this Ratification and First Amendment to Operating
24 Agreement.

25 A That is correct.



1 Q Okay. And when Fieldwood came in and ratified this
2 agreement pursuant to Paragraph (audio interference) -- which
3 is the previous page, Ms. Johnson -- they ratified it as if
4 they were original signatory parties thereto. Is that correct?

5 MR. PEREZ: Object to the form of the question. Asks
6 for a legal conclusion.

7 THE COURT: Sustained.

8 BY MR. GOODWINE:

9 Q Could you read the Paragraph 1 on Page 2 for the Court,
10 please.

11 A "LLOG Energy and Fieldwood hereby ratify, adopt, and
12 confirm the terms and provisions of the OA and become
13 parties to and are now bound by the terms and
14 provisions of the OA to the same terms as if they
15 were original signatory parties to the OA. Fieldwood
16 further confirms that it hereby replaces Davis as a
17 party to the OA."

18 Q Okay. And if you go back to Page 1, if you can confirm
19 for all of us, please, what the effective date is in the
20 opening lines of the agreement.

21 A Dated effective December 12, 2002.

22 Q Okay. So the agreements by Fieldwood go all the way back
23 and are bound -- binding on Fieldwood from 2002 forward. Is
24 that correct?

25 A I'm not -- I don't know the answer to that question. The

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1 document says that it's dated effective December 12th.

2 Q Okay. I'd like to call your attention to LLOG Exhibit 38.

3 Are you familiar with this document?

4 A No, I'm not familiar with this document.

5 Q Okay. Let's go to Exhibit 13, please. This is LLOG

6 Exhibit 13.

7 MR. GOODWINE: I'd like to go to Page 2, Ms. Johnson.

8 And if you can blow it up, please. I think everyone may have a

9 hard time seeing -- okay. So Page 2, the "now therefore"

10 paragraph.

11 Actually, I apologize. If you can scroll up to the

12 introductory paragraph, please.

13 BY MR. GOODWINE:

14 Q Do you see a reference in the defined term "Memorandum of

15 Operating Agreement and Financing Statement" defined as "MOA"

16 in that first paragraph?

17 A Yes, I do.

18 Q And you can confirm that that was actually filed on public

19 record in Terrebonne Parish and in the UCC records. Is that

20 correct?

21 MR. PEREZ: I object to the form of the question,

22 Your Honor. I think the document speaks for itself. And I

23 don't know if he has any independent knowledge as to whether it

24 was filed or not.

25 THE COURT: Sustained.



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1 MR. GOODWINE: Okay. Please scroll down,
2 Ms. Johnson, to the "now therefore" paragraph.

3 BY MR. GOODWINE:

4 Q Can you please read that; then I'll ask you a question
5 about it, Mr. Dane.

6 A "Now therefore, the undersigned, each of which has an
7 interest in portions of the contract area, in consideration for
8 the mutual covenants in the MOA, as amended and ratified, does
9 hereby agree to the recitals stated above and does hereby, by
10 amending the Attachment 1 thereto, as stated in Exhibit A
11 hereto, and does hereby fully ratify the MOA, as hereby
12 amended."

13 Q Okay. Based upon your position as a senior executive with
14 Fieldwood, do you believe that that makes Fieldwood bound by
15 what's defined as the MOA filed on public record previously by
16 Davis and LLOG?

17 MR. PEREZ: Object to the question, Your Honor.
18 Calls for a legal conclusion.

19 THE COURT: Sustained.

20 BY MR. GOODWINE:

21 Q I'd like to call your attention to Page 3.

22 MR. GOODWINE: So one more Page, Lindsey.

23 BY MR. GOODWINE:

24 Q And you previously confirmed that Fieldwood has signed
25 this agreement. Is that correct?



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1 A I don't recall.

2 Q Okay.

3 A I don't recall if --

4 Q My apologies for speaking over you. Can you confirm that
5 -- tell me who John Smith is.

6 A John Smith is our Senior Vice President of Land and
7 Business Development.

8 Q Okay. Is he authorized to sign -- to execute documents
9 such as this that end up being filed on public record?

10 A Yes, sir.

11 Q Okay. So based upon this being a certified copy of a
12 public records filing, you would agree with me, would you not,
13 that John Smith signed this on behalf of Fieldwood Energy LLC
14 -- excuse me, Fieldwood Energy Offshore LLC.

15 MR. PEREZ: Again, Your Honor, I think it -- I'm not
16 sure what -- the document is in evidence and it kind of speaks
17 for itself. I'm not sure what this is intended to do.

18 MR. GOODWINE: I --

19 MR. PEREZ: And it calls for a legal conclusion.

20 THE COURT: I'm going to overrule. I think it's a
21 routine, you know, "did he have the authority to bind you" kind
22 of question. I'm going to allow it.

23 MR. GOODWINE: (Audio interference)

24 THE WITNESS: I'm sorry. Can you --

25 MR. GOODWINE: Yeah, and I'll try to streamline it.



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1 BY MR. GOODWINE:

2 Q Did John Smith execute this agreement on behalf of
3 Fieldwood Energy Offshore LLC, and bound the company in
4 conjunction therewith?

5 MR. PEREZ: Same objection, Your Honor.

6 THE COURT: I'm going to sustain, given the addition
7 of the last six words to the question.

8 MR. GOODWINE: Okay. Then I'll go back.

9 BY MR. GOODWINE:

10 Q Was this document executed by John Smith on behalf of
11 Fieldwood Energy Offshore LLC?

12 A Yes, sir, it is -- I believe -- it appears that way.

13 Q Okay.

14 MR. GOODWINE: And if you scroll up, Lindsey, to Page
15 3 of 8, the last sentence.

16 BY MR. GOODWINE:

17 Q Is there an acknowledgment by Fieldwood that they're bound
18 by the mutual liens and security interests as previously
19 confirmed under the memorandum of operating agreement?

20 MR. PEREZ: Again, Your Honor, calls for a legal
21 conclusion. I think the document speaks for itself.

22 THE COURT: Sustained, given the wording of it -- of
23 the question.

24 BY MR. GOODWINE:

25 Q We're going to move on to the operating agreement, so LLOG



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1 Exhibit 1.

2 THE COURT: Tell you what. Mr. Goodwine, I have an
3 11 o'clock hearing. I didn't realize we would be here quite
4 this long.

5 MR. GOODWINE: Okay.

6 THE COURT: How much longer do you need with
7 Mr. Dane?

8 MR. GOODWINE: Not long. Five minutes.

9 THE COURT: And then who's going to be your next
10 witness?

11 MR. GOODWINE: There are no other witnesses.

12 THE COURT: And how long are you going to need with
13 Mr. Dane, Mr. Perez?

14 MR. PEREZ: Fifteen minutes, Your Honor.

15 THE COURT: Okay. We'll come back at 11:20. I do
16 have a hard stop at noon, but we can come back then at 1:30, if
17 we need to. Or if y'all prefer, we'll just come back at 1:30.
18 What would y'all like to do?

19 MR. GOODWINE: I think we can wrap it up before noon.

20 THE COURT: See y'all at 11:20. Thank you.

21 MR. PEREZ: Thank you.

22 (Recess taken at 10:54 a.m.)

23 (Proceedings resumed at 11:19 a.m.)

24 THE COURT: All right, Mr. Dane. You remain under
25 oath.



Dane - Direct/Goodwine

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1 Mr. Goodwine.

2 MR. GOODWINE: Am I coming through loud and clear?

3 THE COURT: You are, Mr. Goodwine.

4 MR. GOODWINE: Okay.

5 DIRECT EXAMINATION CONTINUED

6 BY MR. GOODWINE:

7 Q Mr. Dane, where -- okay, there you are. I'd like to call
8 your attention to Exhibit 1, which is the operating agreement,
9 and go to Section 19.1, which I think we all now know is on
10 Page 132.

11 MR. GOODWINE: Ms. Johnson, if you can call that up,
12 please.

13 MS. JOHNSON: Your Honor, I think I may have lost the
14 -- my "presenter" privileges, if you wouldn't mind giving those
15 back to me.

16 THE COURT: Oh, sorry. I don't know what happened to
17 that, but they are back to you now. Thank you.

18 MS. JOHNSON: Thank you.

19 (Pause)

20 MR. GOODWINE: That's our super secret case that --
21 I'm sure I haven't read.

22 Okay. Page 132, please, Ms. Johnson.

23 BY MR. GOODWINE:

24 Q Okay. Mr. Dane, you were paying attention when we went
25 through this article before. Is that correct?



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1 A Yes.

2 Q Okay. You testified before that Fieldwood has gone non-
3 consent on operations in Green Canyon Block 201. Is that
4 correct?

5 A Correct.

6 Q And is Fieldwood now receiving 100 percent of the override
7 proceeds as originally assigned to Shell? Obviously not the
8 Marathon portion, but the Shell portion that were conveyed by
9 Davis and LLOG previously?

10 A Yes. Fieldwood's -- Fieldwood's receiving the benefit of
11 the override.

12 Q Okay. Before Fieldwood went non-consent, was it only
13 receiving an 85 percent share?

14 A To my knowledge, I believe before we went non-consent we
15 had a working interest, which was a 15 percent share, and we
16 also owned an override, and we got the benefit and the burden
17 of each of those together -- or separately, but both of them.

18 Q Okay. So if you were a 15 percent working interest owner,
19 that would equate to -- based upon how you set it, an 85
20 percent receipt of the override production. Is that correct?

21 A I don't follow that statement.

22 Q Okay. In other words, Fieldwood purchased an override
23 from Shell. Is that correct?

24 A Correct.

25 Q And Fieldwood was a 15 percent obligor of that override.



1 Is that correct?

2 A Correct.

3 Q Okay. Presently, is Fieldwood receiving 85 percent or 100
4 percent of the proceeds of the override?

5 A Fieldwood is receiving the amount that the override
6 specifies in the conveyance. And I don't understand your
7 question about the 85 percent or 15 percent. The percentage
8 (audio interference) with the override, irrespective of our
9 working interest.

10 Q Okay. But Fieldwood itself is not contributing any
11 portion to the payment of that override after the non-consent.
12 Is that correct?

13 MR. PEREZ: Object to the form of the question.
14 Vague.

15 THE COURT: Sustained.

16 MR. GOODWINE: Okay.

17 BY MR. GOODWINE:

18 Q Is it true that Fieldwood is receiving 100 percent of the
19 override as originally assigned to Shell by Davis and LLOG
20 previously?

21 A Fieldwood's receiving the percentage of the actual
22 override, in its full amount.

23 Q As articulated in the original override. Is that correct?

24 A Correct.

25 Q Prior to going non-consent, did Fieldwood bear 15 percent



Dane - Direct/Goodwine

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1 of the payment obligation under that portion of the override to
2 Shell?

3 MR. PEREZ: Object to the form of the question, Your
4 Honor.

5 THE COURT: Sustained.

6 MR. PEREZ: I don't --

7 THE COURT: Sustained.

8 MR. GOODWINE: I'm sorry, Judge. Did you rule?

9 THE COURT: I sustained the objection.

10 MR. GOODWINE: We'll move on.

11 BY MR. GOODWINE:

12 Q If I could call your attention to LLOG Exhibit 46, which
13 is at 784-1. Are you familiar with this document, Mr. Dane?

14 A Yes, I am.

15 Q Okay. Is this good news for the oil and gas industry
16 offshore?

17 MR. PEREZ: Object to the form of the question, Your
18 Honor, as vague.

19 THE COURT: Sustained.

20 MR. GOODWINE: Okay.

21 BY MR. GOODWINE:

22 Q Has Fieldwood analyzed the impacts of this Secretarial
23 order?

24 MR. PEREZ: Your Honor, relevance.

25 THE COURT: Overruled.



Dane - Direct/Goodwine

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1 THE WITNESS: Yes, we have.

2 BY MR. GOODWINE:

3 Q Okay. And what's your conclusion?

4 A My conclusion is that this document has a number of points
5 in it that are problematic, but it's very ambiguous and vague,
6 and I think the entire industry in general is looking to get
7 more clarity on what exactly the effect of this document is.

8 Q Okay.

9 MR. GOODWINE: Tender the witness, Your Honor.

10 THE COURT: I just -- I couldn't hear you,
11 Mr. Goodwine.

12 MR. GOODWINE: Tender the witness, Your Honor.

13 THE COURT: Thank you.

14 Mr. Perez.

15 MR. GOODWINE: I'm sorry, Your Honor, with one
16 caveat. We obviously called Mr. Dane. We would like to
17 reserve the right to cross-examine briefly depending on the
18 scope of the direct examination by Mr. Perez.

19 THE COURT: You're passing him as to all of your
20 direct examination. Is that right?

21 MR. GOODWINE: As to all of his -- correct.

22 THE COURT: Yeah. Thank you.

23 Mr. Perez, do you have any questions for Mr. Dane?

24 MR. PEREZ: Yes, Your Honor. I just -- yes, I just
25 have a few questions.



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1 MICHAEL T. DANE, DEBTORS' WITNESS, PREVIOUSLY SWORN

2 DIRECT-EXAMINATION

3 BY MR. PEREZ:

4 Q Mr. Dane, do you believe -- does Fieldwood believe that it
5 owes LLOG \$900,000?

6 A No, we dispute that amount.

7 Q And as it relates to the amounts that are in dispute, how
8 much is that?

9 A The amount that we believe that is an actual undisputed
10 amount, subject to it being prepetition and how it would be
11 treated by our plan, and in these agreements, is closer to
12 \$257,000.

13 Q Okay. Now, are you familiar with the override that we've
14 been discussing?

15 A Yes, I am.

16 Q All right. And has Fieldwood ever paid any costs of
17 production or any other cost related to that override?

18 A No. The override is meant to be cost-free, as is typical
19 with overrides, and so we have not.

20 Q And why do you say that? Why do you believe that?

21 A The conveyance and assignment document itself that
22 establishes the terms of the override specifically exclude any
23 costs being attributable to the override itself.

24 Q Now, if the stay were to be lifted and the first purchaser
25 be put on notice, would that create a hardship for Fieldwood?



1 A Yes. We're -- right now we're in the middle of our
2 restructuring. It's an important -- we're at a pretty critical
3 juncture in our restructuring. We are trying to progress it by
4 getting our disclosure statement approved, ultimately getting
5 our plan confirmed over the next several months. So this is
6 taking up a good bit of time.

7 In addition to that, it's started having a liquidity
8 impact on the company, which would be detrimental. Liquidity
9 is very important to the company right now. And I believe we'd
10 probably have to continue litigating this issue, which would
11 cause a distraction to us and our counsel and advisors.

12 Q And just by way of background, how many trade agreements
13 has the company entered into as of today?

14 A I believe we've entered into around 150 trade agreements.

15 MR. GOODWINE: Objection, Your Honor. Objection.
16 Relevance.

17 THE COURT: How is that relevant?

18 MR. PEREZ: Your Honor, just in terms of the demands
19 on management, then the fact that they've been negotiating with
20 other parties. Balance of the harms.

21 THE COURT: Is your objection, Mr. Goodwine, that it
22 isn't relevant to anything we have to consider today, or that
23 it isn't relevant to the scope of what you asked questions
24 about?

25 MR. GOODWINE: No, it's just not relevant to anything

Dane - Cross/Goodwine

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1 today. But my calling Mr. Dane, I think we called him as a --
2 kind of an out-of-order hostile witness, where this is more
3 akin to direct examination. So --

4 THE COURT: Yeah, that's my question is are you
5 objecting to it as part of their direct, or are you objecting
6 to it as part of their cross?

7 MR. GOODWINE: Part of their direct.

8 THE COURT: I'm going to overrule then. I think it
9 is relevant to their direct. It's not relevant to their cross.
10 And I'll accept the answer as given.

11 MR. PEREZ: Your Honor, I don't think I have any
12 further questions.

13 THE COURT: Thank you.

14 Mr. Goodwine, any cross?

15 MR. GOODWINE: Two quick questions, I believe.

16 CROSS-EXAMINATION

17 BY MR. GOODWINE:

18 Q Number one, Mr. Dane. In your experience in the oil and
19 gas industries, have you seen overriding royalty interest
20 provided as collateral for loans or other obligations?

21 A Yes.

22 Q Okay. Does that automatically make them cost-bearing
23 instruments?

24 A No, it does not.

25 Q Okay.



1 MR. GOODWINE: No further questions, Your Honor.

2 THE COURT: Thank you.

3 (Witness excused)

4 THE COURT: Any further evidence --

5 MR. GOODWINE: We have some --

6 THE COURT: Any further evidence by any party? Both
7 sides --

8 MR. GOODWINE: Not from LLOG as to --

9 THE COURT: Sorry. Go ahead.

10 MR. GOODWINE: Not from LLOG as (audio interference).

11 THE COURT: Mr. Perez.

12 MR. PEREZ: No. Nothing further, Your Honor. We
13 rest.

14 THE COURT: Anyone else have any evidence with
15 respect to today's proceeding?

16 All right. Mr. Goodwine, unless it's in the
17 exhibits, I didn't hear any oral testimony that would meet your
18 Timbers of Inwood Forest burden with respect to showing that
19 what we have is collateral of diminishing value, such that
20 diminishment would impair your client's rights.

21 Is that in the evidentiary record somewhere that I
22 missed?

23 MR. GOODWINE: Your Honor, I think by their very
24 nature, overriding royalty interest in oil and gas are
25 depleting in nature. And especially with the headwinds that



1 you've taken a degree of judicial notice on through the
2 Secretarial order, that the ability to have the requisite
3 comfort level that the production is going to be sufficient to
4 cover the claim is a very big open question.

5 In addition to that, the current plan is to assign
6 the override to a third party --

7 THE COURT: Yeah, I'm not worried about --

8 MR. GOODWINE: -- and through the plan --

9 THE COURT: I'm not worried about the -- I don't
10 understand how a plan not yet approved goes towards a Timbers
11 of Inwood Forest issue.

12 MR. GOODWINE: I understand. Then what -- the
13 argument I will make for you, Your Honor, at the end of the
14 day, is that due to the declining nature of oil and gas in
15 general, especially now with the Secretarial order, admittedly
16 when we filed these motions that order wasn't out there, but we
17 also didn't have a plan on file. And our biggest concern at
18 that point was that we were just going to be going on without
19 any clear guidance as to when we'd be able to analyze things
20 from a plan of reorganization.

21 But the balance of the harms for approximately
22 \$50,000 a month we think is appropriate to set aside to cover
23 what we believe is clearly a fully secured claim to 902. And
24 at the end of the day, that's the best argument we can put
25 forward to you.

1 THE COURT: Thank you. I'm going to assume without
2 finding every other factor and find that the movant has failed
3 to demonstrate an absence of adequate protection, even if it
4 has a collateral interest in the ORRI, a finding that I am not
5 making that they do. But the burden under Timbers has to
6 demonstrate that any decline has an adverse effect. And I have
7 zero evidence before me as to what the current value is of this
8 ORRI. It could be worth a billion dollars, for all I know. I
9 don't know what it's worth. I have zero evidence on that.

10 It's the burden of the movant to show me they need
11 adequate protection. And the fact that oil and gas is a
12 depleting asset, you need to say from the beginning what's it
13 depleting, under Timbers. If you have a massively oversecured
14 creditor, for example, then they don't need adequate
15 protection.

16 I find there's simply a lack of evidence to support
17 the claim. I'm also ruling pretty narrowly today -- this is
18 really hard, and there's no way I'm going to rule from the
19 bench as to whether or not there is a lien, whether it's
20 required to be a mortgage or is a personal property interest on
21 the ORRI without really taking the trouble to go through this.
22 I think it's important. I don't think it's an obvious first-
23 blush call one way or the other. And so I'm, to some extent,
24 cowardly ruling on that absence of evidence and not going into
25 the hard stuff. I think we'll get there at confirmation.

1 I, frankly, very much appreciate the preview. It
2 gives me a lot to work on and think about. But on a narrow
3 basis, everybody agrees what the burden is on a party seeking
4 this, and I find that the evidentiary burden hasn't been met.
5 So I am denying the motion, but I'm denying it without
6 prejudice, and I am not ruling on the actual lien questions one
7 way or the other.

8 Thank y'all. Y'all have continued discussions, I
9 know, about how to handle this, and we'll deal with it at the
10 plan confirmation. We're in adjournment. Thank you.

11 MR. PEREZ: Thank you, Your Honor.

12 MS. JOHNSON: Thank you, Your Honor.

13 MR. GOODWINE: Thank you, Your Honor.

14 (Proceedings concluded at 11:35 a.m.)

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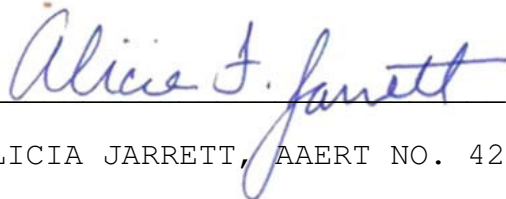
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C E R T I F I C A T I O N

I, Alicia Jarrett, court-approved transcriber, hereby
certify that the foregoing is a correct transcript from the
official electronic sound recording of the proceedings in the
above-entitled matter, and to the best of my ability.



ALICIA JARRETT, AAERT NO. 428

DATE: June 1, 2021

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